

1985 FEB 25 PM 4: 13  
HOUSE OF REPRESENTATIVES

FILED FEB 7 1985

I certify that the attached is a true and  
correct copy of HB 758, which  
was filed of record on FEB 6 1985  
and referred to the committee on:

Law Enf.  
*Barry Murray*  
Chief Clerk of the House

By *Cal*

HB. No. 758

A BILL TO BE ENTITLED

AN ACT

relating to the imposition of certain administrative penalties by  
the Board of Polygraph Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Polygraph Examiners Act (Article 4413(29cc),  
Vernon's Texas Civil Statutes) is amended by adding Section 22A to  
read as follows:

Sec. 22A. ADMINISTRATIVE PENALTY. (a) If the board  
determines that a person regulated under this Act has violated this  
Act or a rule adopted under this Act in a manner that constitutes  
a ground for a license suspension under Section 19 of this Act, the  
board may assess a civil penalty against that person in lieu of the  
license suspension as provided by this section.

(b) The board may assess the civil penalty in an amount not  
to exceed \$5,000. In determining the amount of the penalty, the  
board shall consider the seriousness of the violation.

(c) If, after examination of a possible violation and the  
facts relating to that possible violation, the board concludes that  
a violation has occurred, the board shall issue a preliminary  
report that states the facts on which the conclusion is based, the  
fact that a civil penalty is to be imposed, and the amount to be  
assessed. Not later than the 10th day after the day on which the  
board issues the preliminary report, the board shall send a copy of  
the report to the person charged with the violation, together with

1 a statement of the right of the person to a hearing relating to the  
2 alleged violation and the amount of the penalty.

3 (d) Not later than the 20th day after the day on which the  
4 report is sent, the person charged either may make a written  
5 request for a hearing or may remit the amount of the civil penalty  
6 to the board. Failure either to request a hearing or to remit the  
7 amount of the civil penalty within the time provided by this  
8 subsection results in a waiver of a right to a hearing under this  
9 Act. If the person charged requests a hearing, the hearing shall  
10 be conducted in the manner provided by Section 22 of this Act. If  
11 it is determined after the hearing that the person has committed  
12 the alleged violation, the board shall give written notice to the  
13 person of the findings established by the hearing and the amount of  
14 the penalty and shall enter an order requiring the person to pay  
15 the penalty.

16 (e) Not later than the 30th day after the day on which the  
17 notice is received, the person charged shall pay the civil penalty  
18 in full, or, if the person wishes to contest either the amount of  
19 the penalty or the fact of the violation, forward the assessed  
20 amount to the board for deposit in an escrow account. If, after  
21 judicial review, it is determined that no violation occurred or  
22 that the amount of the penalty should be reduced, the board shall  
23 remit the appropriate amount to the person charged with the  
24 violation not later than the 30th day after the day on which the  
25 judicial determination becomes final.

26 (f) Failure to remit the amount of the civil penalty to the  
27 board within the time provided by Subsection (e) of this section

1 results in a waiver of all legal rights to contest the violation or  
2 the amount of the penalty.

3 (g) A civil penalty owed under this section may be recovered  
4 in a civil action brought by the attorney general at the request of  
5 the board.

6 (h) A penalty collected under this section shall be  
7 deposited in the state treasury to the credit of the general  
8 revenue fund.

9 SECTION 2. This Act takes effect September 1, 1985, and  
10 applies only to an administrative penalty imposed on a violation  
11 occurring on or after that date.

12 SECTION 3. The importance of this legislation and the  
13 crowded condition of the calendars in both houses create an  
14 emergency and an imperative public necessity that the  
15 constitutional rule requiring bills to be read on three several  
16 days in each house be suspended, and this rule is hereby suspended.

HOUSE  
COMMITTEE REPORT

1st Printing

By Ceverha

H.B. No. 758

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15 constitutional rule requiring bills to be read on three several  
16 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

3-27-85

(date)

The Honorable Gib Lewis  
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON LAW ENFORCEMENT, to whom was referred H.B. 758 have had the same under consideration and beg to report back with the recommendation that it (measure)

- ☒ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ☒ yes ☐ no An actuarial analysis was requested. ☐ yes ☒ no

An author's fiscal statement was requested. ☐ yes ☒ no

The Committee recommends that this measure be placed on the ~~(Local)~~ or ~~(Consent)~~ Calendar.

This measure ☐ proposes new law. ☒ amends existing law.

House Sponsor of Senate Measure \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Keller, Ch.	<input checked="" type="checkbox"/>			
Hightower, V.C.	<input checked="" type="checkbox"/>			
Ceverha, C.B.O.				<input checked="" type="checkbox"/>
Burnett	<input checked="" type="checkbox"/>			
Granoff	<input checked="" type="checkbox"/>			
Johnson, C.	<input checked="" type="checkbox"/>			
Melton	<input checked="" type="checkbox"/>			
Short	<input checked="" type="checkbox"/>			
Tallas	<input checked="" type="checkbox"/>			

Total  
8 aye  
0 nay  
0 present, not voting  
1 absent

Ray Keller  
CHAIRMAN  
Laura Colfee  
COMMITTEE COORDINATOR

BILL ANALYSIS

BACKGROUND:

The current statutes pertaining to oversight of polygraph examiners allows the Board to probate, reprimand, suspend and revoke licenses for violations. However, because the Agency has two employees, the Attorney General has advised not using the probation method for punishment.

PURPOSE:

This bill proposes to allow the Polygraph Examiners Board to assess a civil penalty not to exceed \$5,000 for violations of the statutes or a rule adopted under the Polygraph Examiners Act.

SECTION BY SECTION ANALYSIS:

SECTION 1.

Amending Article 4413(29cc), Polygraph Examiners Act, by adding Section 22A.

- (a) -Adding the title 'Administrative Penalty' and adding language allowing the board to assess a civil penalty for violations.
- (b) -Adding language allowing the civil penalty may not exceed \$5,000 and that seriousness of violation will be a consideration.
- (c) -Adding language requiring the board to issue a preliminary report on the violation and civil penalty. Board shall send a copy to person charged with violation no later than 10th day after report is issued. Alleged violator has a right to a hearing.
- (d) -Adding language allowing the alleged violator to respond to preliminary findings no later than the 20th day after the report was sent. Failure to respond either by request of a hearing or submission of penalty, hearing right will be waived.
- (e) -Adding language requiring alleged violator to pay civil penalty no later than the 30th day after the notice is received. Alleged violator may contest either amount or fact of violation. Upon findings of judicial review the board will take certain action within a 30 day period.
- (f) -Adding language stating failure to remit penalty amount as described in Subsection (e) results in waiver of all legal rights to contest violation or penalty.
- (g) -Adding language allowing the attorney general to recover civil penalty through civil action.
- (h) -Adding language requiring collection of penalties to be deposited in general revenue fund.

SECTION 2.

Effective date of this Act is September 1, 1985 and applies to administrative penalties imposed on a violation on or after effective date.

SECTION 3.

Emergency clause.

RULEMAKING AUTHORITY:

It is the Committee's opinion that this Act does not delegate rulemaking authority to any state officer, agency, department or institution.



SUMMARY OF COMMITTEE ACTION:

Public notice was posted in accordance with the Rules of Procedure of the House of Representatives and a public hearing was held on March 27, 1985. The full committee voted to report House Bill 758 to the House with the recommendation that this measure do pass by a record vote of 8 ayes and 0 nays.

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE

March 27, 1985

Honorable Ray Keller, Chair  
Committee on Law Enforcement  
House of Representatives  
Austin, Texas

In Re: House Bill No. 758  
By: Ceverha

Sir:

In response to your request for a Fiscal Note on House Bill No. 758 (relating to the imposition of certain administrative penalties by the Board of Polygraph Examiners) this office has determined the following:

The probable revenue gain from implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

<u>Fiscal Year</u>	<u>Probable Revenue Gain to the General Revenue Fund</u>
1986	\$16,500
1987	17,000
1988	17,500
1989	18,000
1990	18,500

Similar annual revenue gains would continue as long as the provisions of the bill are in effect.

No fiscal implication to units of local government is anticipated.

  
Jim Oliver  
Director

Source: Texas Polygraph Examiners Board; Attorney General;  
LBB Staff: JO, JH, AF, PA

A BILL TO BE ENTITLED  
AN ACT

relating to the imposition of certain administrative penalties by the Board of Polygraph Examiners.

FEB 7 1985

1. Filed with the Chief Clerk.

FEB 25 1985

2. Read first time and Referred to Committee on

Law Enforcement

MAR 2 7 1985

3. Reported favorably <sup>(as amended)</sup> ~~(as substituted)~~ and sent to Printer at 4:00 pm

MAR 2 9 1985

4. Printed and distributed at 11:49 am

MAR 2 8 1985

APR 1 1985

5. Sent to Committee on Calendars at 8:21 am

6. Read second time (amended); passed to third reading (failed) by (Non-Record Vote) (Record Vote of        yeas,        nays,        present, not voting).

7. Motion to reconsider and table the vote by which H.B.        was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of        yeas,        nays, and        present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of        yeas,        nays, and        present, not voting.

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of        yeas,        nays,        present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B.        was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of        yeas,        nays, and        present, not voting).

12. Ordered Engrossed at       

13. Engrossed.

14. Returned to Chief Clerk at       

15. Sent to Senate.

Chief Clerk of the House

16. Received from the House

17. Read, referred to Committee on       

18. Reported favorably

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

21. Regular order of business suspended by        (a viva voce vote.)        yeas,        nays.)

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays.

23. Read second time \_\_\_\_\_ passed to third reading by:  
(a viva voce vote.)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

24. Caption ordered amended to conform to body of bill.

25. Senate and Constitutional 3-Day Rules suspended by vote of \_\_\_\_\_ yeas,  
\_\_\_\_\_ nays to place bill on third reading and final passage.

26. Read third time and passed by  
(a viva voce vote.)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays.)

OTHER ACTION:

OTHER ACTION:

\_\_\_\_\_  
Secretary of the Senate

27. Returned to the House.

28. Received from the Senate (with amendments.)  
(as substituted.)

29. House (Concurred) (Refused to Concur) in Senate (Amendments) by a (Non-Record  
(Substitute) Vote) (Record Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present,  
not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record  
Vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, and \_\_\_\_\_ present, not voting).

32. Ordered Enrolled at \_\_\_\_\_